

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 10-CR-30053-MJR
JUDIOUS KIZEART, BRENT CASH,)	
DARRYL MADISON, THADIUS PAGE,)	
TERRILL CLARK, GARY PAYNE and)	
MICHAEL WILLIAMS,)	
)	
Defendants.)	

Court's Sentencing Memorandum

REAGAN, District Judge:

The Court, as part of its sentencing obligation, is to consider the “the nature and circumstances of the offense.”¹ With that obligation in mind, the Court enters this sentencing memorandum regarding dog fighting. Unlike drug and gun cases, this Court has no experience with the crime of dog fighting and felt additional background and research was necessary to fulfill its sentencing obligation. This memorandum is entered well in advance of the sentencing hearing in the instant case in order to provide the parties with research the Court has gleaned outside the record in this case.

¹ 18 U.S.C. § 3553(a)(1) (2006).

I. Introduction

Dog fighting has attracted much social attention in recent years. Although it was once considered an acceptable form of entertainment, today it is illegal in all 50 states and by Act of Congress. This memo will explore the unseemly world of dog fighting, discussing the origin and the history of dog fighting, the procedures for training dogs and holding dog fights today and notable dog fighting cases which serve as an example and reference for the judiciary, such as Michael Vick's case.

This review of the history and methodology of dog fighting is generic; that is, it is not meant to be construed as applicable to the cases currently on the Court's docket which have their own histories and fact patterns.

II. History of Dog Fighting in the United States

Dog fighting began in the United States as a cultural import from England. While historians believe that dog fighting was introduced to colonial America as early as 1750, the blood sport did not gain in popularity in America until the nineteenth century.² The surge in popularity corresponded with a surge in England around the same time. Parliament passed the Humane Act of 1835,³ which banned baiting sports—when dogs would fight larger animals, like bulls and bears, while the larger animal was tethered to stake.⁴ Baiting sports were enormously popular within all circles of British society. With the new ban on these activities, dog handlers and baiting enthusiasts were left searching for a legal substitute to fill the void. As an alternative to baiting events, handlers of fighting dogs began to stage dog fights.⁵ While fighting events between larger animals and dogs were banned, dog fighting was a legal alternative that British society could enjoy.⁶

English and Irish immigrants arrived to the United States, bringing their fighting dogs with them. As a result, fighting dogs began to arrive in large numbers to the United States, initiating the start of a popular pastime for American culture. Initially, the sport was endorsed by the United Kennel Club, and the organization provided official rules and referees.⁷ Immensely popular among firefighters and police

² ASPCA, Dog Fighting FAQ, <http://www.aspc.org/fight-animal-cruelty/dog-fighting/dog-fighting-faq.html> (last visited Mar. 15, 2010).

³ Julie Bank & Stephen Zawistowski, *History of Dog Fighting*, ASPCA ANIMAL WATCH, Fall 1997, available at <http://www.aspc.org/fight-animal-cruelty/dog-fighting/history-of-dog-fighting.html>.

⁴ *Id.*; see also Humane Act, 1835, 5 & 6 Will. 4, c. 59, § 3 (Eng.).

⁵ Bank & Zawistowski, *supra* note 3.

⁶ *The Humane Act of 1835 . . . Promoted Dog Fighting*, LAMPPPOST (Colonial Terrier Club, Virginia Beach, Va.), Oct. 2007, at 1.

⁷ Hanna Gibson, Dog Fighting Detailed Discussion (2005), <http://www.animallaw.info/articles/ddusdogfighting.htm>.

officers, dog fighting events became common entertainment for the working class in the United States, so much so that public forums, like local taverns and sporting halls, would regularly host dog fights.⁸ During the height of the sport's popularity, upcoming dog fights would be advertised in national magazines, like the *National Police Gazette*.⁹ The blood sport was so popular with Americans that railroad companies would even offer special fares to a dog fight.¹⁰ Despite the popularity, local state legislatures began to ban the sport during the 1860s but did little to enforce the new laws.¹¹ Lax enforcement resulted in the continued popularity of the sport to the 1930s, when the support of the United Kennel Club as well as other high profile organizations was lost, driving dog fighting underground.¹²

During the late 1960s, dog fighting received a new resurgence because two periodicals dedicated to the sport of dog fighting were published. Both *Sporting Dog Journal* and *Pit Dog Report* helped renew interest by providing information about dog fighting. As a result of these periodicals, the numbers of dog fights in the United States increased.¹³

⁸ *Id.*

⁹ See Bank & Zawistowski, *supra* note 3.

¹⁰ See Gibson, *supra* note 7.

¹¹ *Id.*

¹² *Id.*

¹³ See *The Humane Act of 1835 . . . Promoted Dog Fighting*, *supra* note 6, at 2.

III. Dog Fighting on an International Scale

Presently, despite an almost global ban on dog fighting, the sport has grown into a billion dollar industry and continues to draw new fans and handlers each year.¹⁴ In countries where dog fighting is illegal, the sport continues to surreptitiously grow at an accelerated rate out of the public eye. “Legal or not, dog fights are openly held in parts of Latin America, Pakistan and Eastern Europe, and clandestinely in the U.S. and the United Kingdom.”¹⁵ In the United Kingdom, for example, the government has issued reports stating dog fighting has gone up 400% in the last three years and is expected to continue to gain in popularity, especially among children and teenagers.¹⁶ Afghanistan is another country that has seen an increase in dog fighting in recent years. Originally banned by the Taliban, who viewed the sport as “un-Islamic,” dog fighting was an almost unheard of practice under the Taliban rule, but since the overthrow of the Taliban regime, Afghanistan has seen a resurgence of the sport as a form of entertainment.¹⁷ In the capital of Afghanistan, dog fights draw as many as 2000 people in attendance, and betting pots run as high as \$10,000.¹⁸ Furthermore, in Italy, the sport flourishes under the control of the Italian Mafia, which makes an estimated five hundred million dollars yearly from it.¹⁹

While some countries have outlawed dog fighting, it has not been

¹⁴ See OFF THE CHAIN: A SHOCKING EXPOSE ON AMERICA’S FORSAKEN BREED (Bobby J. Brown producer 2004).

¹⁵ Monica Villavicencio, *Inside the Underground Word of Dog Fighting*, NPR, July 19, 2007, <http://www.npr.org/templates/story/story.php?storyId=12098479>.

¹⁶ *The Report: Inside the World of Dog-Fighting* (BBC Radio 4 broadcast July 30, 2009), available at <http://www.bbc.co.uk/programmes/b00lszhl>.

¹⁷ Kirk Semple, *Dogfighting Making a Comeback in Afghanistan*, N.Y. TIMES, Dec. 28, 2008, at A6, available at <http://www.nytimes.com/2008/12/28/world/asia/28dogfight.html>.

¹⁸ *Id.*

¹⁹ See Gibson, *supra* note 7.

specifically banned in many parts of Eurasia. Russia, for example, is one country where dog fighting is legal, with the exception of the capital city of Moscow, and has experienced a new surge of popularity for dog fighting as a source of entertainment for the locals. It is growing especially popular among young people, who view owning a fighting dog as a status symbol in Russian culture.²⁰ Like Russia, Japan is another country which has sanctioned dog fighting, in almost all parts of the country.²¹ However, Japanese dog fighting is not as lethal as it is elsewhere. Comparable to Sumo wrestling, Japanese dog fights are judged by points, while dogs attempt simply to pin their opponent to the floor, as opposed to merely inflicting as much damages as possible onto the other dog. Like Sumo wrestlers, the fighting dogs are ranked according to their success rate and don ceremonial dressings at fights.²² Dating back to the times of the Samurai, Japanese dog fighting is not as popular as it once was but still attracts tens of thousands every year.²³

²⁰ *Fighting by Proxy: New Russians Send Their Dogs Into Battle*, RUSSIA J., Apr. 26, 1999, available at <http://www.russiamjournal.com/node/1086>.

²¹ Douglas G. Link, History of Animal Fighting, <http://game-bred.com/history-animal-fighting.htm> (last visited Mar. 15, 2010).

²² Catherine Marien-de Luca, Tosa Inu, Tosa Ken (Japanese Mastiff, Tosa Dog, Tosa Touken, Tosa Tôken), <http://www.bulldoginformation.com/Tosa-inu.html> (last visited Mar. 15, 2010).

²³ Ben Hills, *It's Dog Fight Dog in Japan's Dying Sport: The Fighting Dogs of Shikoku*, SYDNEY MORNING HERALD, Aug. 29, 1994, at 10, available at <http://www.benhills.com/articles/articles/JPN32a.html>.

IV. The Details of the Blood Sport

a. The Levels of Dog Fighting

Like other criminal activities, law enforcement agents profile dog fighters according to their level of sophistication. The three categories in which law enforcement classifies dog handlers are professionals, hobbyists, and street fighters.²⁴

Professional dog fighting is both lucrative and well organized. Regarded as the most sophisticated group of dog fighters, professional handlers focus on the monetary gains to be had from fighting, breeding, or selling fighting dogs.²⁵ To professional handlers, dogs are viewed only as investments, and as a result, the dogs are constantly evaluated for their potential return rate. If a dog is a poor investment, the dog will either be killed or abandoned. In an effort to increase their profits, professional handlers will keep a larger number of dogs, usually fifty or more at a time.²⁶ Because professional handlers fight dogs for monetary returns, creating the best specimen for fighting is their main concern. Professional handlers are careful to record each dog's training regiment in what is referred to as a 'keep journal.' Here the handlers record all the details of a dog's training, including the nutrition and drugs that are injected into the dog. These journals are kept secret, so that another handler does not discover the training techniques.²⁷

²⁴ See Bank & Zawistowski, *supra* note 3.

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Nancy Lawson, *The Cost of Dog Fighting*, ANIMAL SHELTERING, Nov./Dec. 2007, at 32, 34, available at http://www.animalsheltering.org/resource_library/magazine_articles/nov_dec_2007/costs_of_dogfighting.pdf.

Often, professional handlers will travel long distances to participate at larger events that offer a higher purse. Because large amounts of money exchange hands at professional dog fighting events, they sophisticated organization and security and, as a result, are notoriously difficult for police to infiltrate.²⁸ Most events require knowledge of code words and identification before a person is allowed to enter.²⁹ To guard against police raids, organizers may listen to police monitors, and armed guards sometimes patrol the venue, careful to keep an eye open for law enforcement or others who would disrupt the event.³⁰ According to reports, officials believe that there are roughly forty thousand active professional dog fighters in the United States and that the number will continue to rise as long as dog fighting remains lucrative.³¹

Like professionals, hobbyists also view dog fighting as a lucrative venture but are more drawn to the sport for its entertainment value.³² While most hobbyists occasionally fight their dogs for money, the majority of their involvement in the sport comes from being spectators and wagering on the fights.³³ Generally, hobbyists own few fighting dogs, but they will still participate in organized fights.

Of all the dog fighters, the largest and fastest growing group is referred to as the “street fighters.” Associated most commonly with gangs and young people, this group views dog fights as a forum to prove their own superiority and toughness.³⁴ Generally, these dog fights are unorganized and devoid of any formal rules. The fights

²⁸ Jamey Medlin, *Pit Bull Bans and the Human Factors Affecting Canine Behavior*, 56 DEPAUL L.REV. 1285, 1300–03 (2007).

²⁹ THE FINAL ROUND: A FIGHT TO THE FINISH (Humane Soc’y of the U.S. Prods. 2007).

³⁰ Medlin, *supra* note 29, at 1300.

³¹ Bank & Zawistowski, *supra* note 3.

³² *Id.*

³³ See Medlin, *supra* note 29, at 1301.

³⁴ See Bank & Zawistowski, *supra* note 3.

often take place in full public view on streets, alleyways, or in backyards.³⁵ The cruelty associated with the street fighters is often where the most harrowing stories of dog abuse originate because most street fighters view the dogs as disposable, even more so than typical handlers.³⁶ In a particularly brutal and heinous case two pit bulls, one of which was either pregnant or still nursing a litter, were stabbed, dragged by a moving vehicle, and then burned alive by two teenage boys, who were believed to be associated with dog fighting.³⁷

Perhaps even more alarming than the cruelty associated with this group is the pervasiveness of the sport to young children. According to Sgt. Steve Brownstein of Chicago's Animal Abuse Control Team, "In many neighborhoods where gangs are strong, you now have 8-, 9-, and 10-year olds conducting their own dogfights. Or being spectators at the fights people are holding."³⁸ Officials agree this is the largest and fastest growing group of dog fighters with an estimated one hundred thousand "street fighters" currently in the United States.³⁹

³⁵ *Id.*

³⁶ *See Id.*

³⁷ See Liz Ford, *2 Pit Bull Terriers Euthanized After Being Set on Fire in Dallas*, DALLAS MORNING NEWS, April 9, 2009, available at 2009 WLNR 6536625.

³⁸ Gibson, *supra* note 7.

³⁹ *Dogfighting a Booming Business, Experts Say*, CNN, July 19, 2007, <http://www.cnn.com/2007/US/07/18/dogfighting>.

b. The Dogs Used

Although the types of dogs used for dog fighting varies greatly depending upon the geographic region, the breeds most commonly used in the United States are Fila Brasileiros, Dogo Argentinos, Presa Carnarios, and Pit Bulls.⁴⁰ The term Pit Bull has a broad definition that can refer to as many as five breeds. The narrowest definition includes only the American Pit Bull Terrier and the American Staffordshire Terrier; the broadest definition also includes the Bull Terrier, the American Bulldog, the Staffordshire Bull Terrier and mixes of the five breeds.⁴¹ No matter the name given to these animals, generally speaking they are very powerful dogs and can inflict substantial damage against animals and humans alike.

Although recent events have painted pit bulls as aggressive and violent, generally speaking, pit bulls are known for their intelligence, strength and courage.⁴² Interestingly enough, pit bulls can also be gentle, devoted and affectionate.⁴³ During the early twentieth century, pit bulls were often referred to as “nursemaids or nanny dogs” because of their gentle disposition and protective nature towards young children.⁴⁴ This gentle nature and devotion to humans makes these breeds particularly appealing to dog fighters because “[pit bulls] will withstand considerable abuse and neglect at the hands of their owners and will remain loyal and non-aggressive towards humans.”⁴⁵ Because of their inherent strength and gentle demeanor towards humans, pit bulls are favored

⁴⁰ ASPCA, *supra* note 2.

⁴¹ ASPCA, Virtual Pet Behaviorist - The Truth About Pit Bulls, <http://www.aspcabehavior.org/articles/193/The-Truth-About-Pit-Bulls.aspx> (last visited May 6, 2010).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*; see Tyla Hafstrom, *America's Nanny Dog*, TIMES-STANDARD (Eureka, Cal.), Sept. 25, 2007, available at http://www.times-standard.com/opinion/ci_6993026.

⁴⁵ See Gibson *supra* note 7.

more than any other breed by dog fighters, and as a result of this favor, “pit bulls have been subjected to cruelty, abuse and mistreatment to a degree and on a scale that no other breed in recent history has ever had to endure.”⁴⁶

c. *How they are treated*

The lives of fighting dogs are not to be envied. These dogs do not lead normal lives, but rather every aspect of the dog’s life is carefully calculated to antagonize and thereby increase the aggression level of the dog. Many fighting dogs spend their entire lives without basic nutrition, shelter and healthy socialization with humans and other animals. Rather, fighting dogs spend the majority of their lives in filthy conditions, penned in small cages or chained up with heavy chains across their neck.⁴⁷ As the dog grows, owners will add weights to the chains in order to increase the dog’s strength.⁴⁸ Generally, the dogs are kept in close proximity to other fighting dogs in order to further antagonize and increase anxiety levels.⁴⁹ The dogs are also beaten and goaded on a daily basis in order to raise the dog’s tolerance towards pain and increase the “fight” within the dog.⁵⁰ At the professional level, fighting dogs receive better care in that they are at least fed on a daily basis and their exercise is monitored. However, these dogs are often injected with steroids, and various other legal and illegal drugs to increase the size, strength, and aggressiveness in the dog.⁵¹ If the dog fighters are hobbyists or even street dog fighters, the dogs may receive significantly less care. To

⁴⁶ KAREN DELISE, FATAL DOG ATTACKS: THE STORIES BEHIND THE STATISTICS 85 (2002).

⁴⁷ See Jacob Silverman, *How Dog Fighting Works*, HOWSTUFFWORKS, July 27, 2007, <http://www.howstuffworks.com/dogfigthing.htm/printable>.

⁴⁸ *Id.*

⁴⁹ Brittany Bacon, *Inside the Culture of Dogfighting: From Blood Money to Bragging Rights, Dogfighting is More Popular Than You Might Think*, ABC NEWS, July 19, 2007, <http://abcnews.go.com/print?id=3390721>.

⁵⁰ See Bank & Zawistowski, *supra* note 3.

⁵¹ See Gibson, *supra* note 7.

increase aggression, these dogs may be starved, have lit cigarettes burned into their coats, or may be beaten with a variety of crude instruments including broken bottles, pipes, or even machetes.⁵²

Further adding to the suffering of these animals, some handlers purposefully disfigure their dogs in a crude attempt to give their dog an advantage in a fight. Handlers will cut off a dog's ears and tail, lest another dog latches onto them during a fight.⁵³

⁵² See Pet Pit Bull - Sad Reality, <http://www.pitbullsontheweb.com/petbull/sadreality.php> (last visited May 6, 2010).

⁵³ Kate Bonny, *Cosmetic Surgery: Tail Docking, Ear Cropping, and De-Clawing*, TAILS (Vernon County Humane Soc'y, Viroqua, Wis.), Fall 2004, at 1, 2, available at http://www.vchumane.org/files/VCHS_Tails_fall04.pdf.

While tail docking, as it is referred to by the veterinarians, can be done without anesthesia, cropping a dog's ears is a very invasive procedure and requires anesthesia and extensive care for the dog to successfully recover.⁵⁴ Both procedures are often done in the dogfighting world with dull, unsterilized objects, such as scissors or knives, without any anesthetic and without proper medical attention, leaving the dog disfigured and at risk for infection or other serious health problems.⁵⁵ Dog fighters also employ teeth filing or teeth sharpening as another method to increase their dog's prowess in the ring. Though not done by all handlers, the procedure of teeth sharpening is essentially where a dog's teeth are filed to be as sharp as possible, which in turn would inflict greater injury on the opposing dog.⁵⁶

For fighting dogs, training begins while the dog is still a puppy. While the level of training a particular dog receives depends highly upon each individual handler. Each handler strives to increase the level of "gameness" or aggressiveness in their dog and will resort to any means necessary to accomplish this goal. Most commonly, fighting dogs will exercise on small treadmills for long periods of time to increase the dog's stamina.⁵⁷ Less affluent trainers tie the dog's leash to a running vehicle, forcing the dog to run behind a moving car for miles on end.⁵⁸ Trainers will also employ "jump poles," which is where a tire dangles from a large pole and the dog attempts to hang from the tire as long as possible to increase stamina and jaw strength.⁵⁹

⁵⁴ Vet4Petz, Pet Health: Cosmetic Surgery, http://www.vet4petz.com/articles/cosmetic_surgery.htm#debark (last visited May 6, 2010).

⁵⁵ Deanna Raeke, *Pit Bull Puppy Maimed—Video*, FOR LOVE OF DOG BLOG, April 6, 2009, <http://forthe love of the dog blog .com/ news-updates/ pitbull-puppy-maimed-video>.

⁵⁶ See OFF THE CHAIN, *supra* note 14.

⁵⁷ See Gibson, *supra* note 7.

⁵⁸ Bacon, *supra* note 49.

⁵⁹ Gibson, *supra* note 7.

One of the more sadistic training methods utilized by handlers is referred to as the “Catmill or Jenny.” Similar to a “carnival horse walker with several beams jetting out from a central rotating pole,” the Jenny is used to increase the dog’s stamina by attaching the dog to one part of the pole and attaching “bait” to another end of the pole, thus allowing the dog to run continuously for long periods of time.⁶⁰ The bait can range anywhere from toys to actual animals, including rabbits, cats, or even small dogs, and in some instances, these “bait” animals are household pets that have been stolen from backyards.⁶¹ After the workout, the dog is usually rewarded with the bait animal and mauls it to death.⁶²

Early in the dog’s training, it may be forced to participate in a “roll,” which is a controlled fight where young dogs are taught to lunge at each other.⁶³ As the dog’s training progresses, the dog is paired against an older dog to ascertain the dog’s demeanor and “gameness.” Trainers will also steal larger dogs, such as German Shepherds, Doberman Pinchers, or Labs, from neighborhoods to stage “rolls” against their fighting dogs. Often times, these bait dogs are muzzled in an attempt to limit injuries to the fighting dogs, while the trainer encourages the fighting dog to attack. Other times, handlers utilize metal wiring to tie bait animals legs together in order to prevent the bait from fleeing.⁶⁴ During any of these rolls, the trainers attempt to determine the aggressiveness, strength, and willingness to fight present in the dogs. If

⁶⁰ *Id.*

⁶¹ Maryann Mott, *U.S. Dog-Fighting Rings Stealing Pets for “Bait,”* NAT’L GEOGRAPHIC NEWS, Feb. 18, 2004, http://www.news.nationalgeographic.com/news/2004/02/0218_040218_dogfighting.html

⁶² See Gibson, *supra* note 7.

⁶³ *Id.*

⁶⁴ Stray Rescue of St. Louis, History of Stray Rescue, <http://www.strayrescue.org/node/35> (last visited May 6, 2010).

the dog shows the requisite level of aggression, it is deemed ready to fight, but if the dog exhibits any signs of disinterest in fighting or fear, the dog will most likely be neglected, abandoned or killed.⁶⁵

d. The Fights and Rules

Similar to other clandestine activities, dog fighting can take place in a variety of locations as long as the location provides a certain level of privacy. Experts report that dog fights takes place in a multitude of locations, including abandoned buildings, barns, basements or garages.⁶⁶ The actual dog fight takes place in a pit, which can be an actual hole dug in the ground or a ring constructed of wood and spanning anywhere around fifteen to twenty feet.⁶⁷ Normally, the floor of the pit is covered with carpet to absorb blood from the dogs.⁶⁸ At more structured dog fighting events, a referee is selected to oversee the match and ensure certain rules are followed. While dog fighting rules may vary from venue to venue, the most commonly followed rules governing dog fighting are the Cajun Rules.⁶⁹ Written by former Louisiana police chief G.A. Trahan, these rules are the most popular among professional dog fighters.⁷⁰

Before each fight referees will ask the handlers to weigh their dogs and wash the opponent's dog to ensure the dogs' coats are not covered in poison.⁷¹ After which, the dogs are placed behind their separate scratch lines, which is similar to corners in boxing, until the referee sounds for the start of the match. According to the

⁶⁵ See OFF THE CHAIN, *supra* note 14.

⁶⁶ See Gibson, *supra* note 7.

⁶⁷ See OFF THE CHAIN, *supra* note 14.

⁶⁸ *Id.*

⁶⁹ G.A. (Gaboony) Trahan, Cajun Rules, <http://www.sporting-dog.com/select-pages/cajunrules.htm> (last visited May 6, 2010).

⁷⁰ Sporting Dog Online, Features, <http://www.sporting-dog.com/features.html> (last visited May 6, 2010).

⁷¹ See Trahan, *supra* note 69; Silverman, *supra* note 47.

rules, handlers are forbidden from physically interfering during the match but may shout at the dogs instead. The match continues until one of the dogs can no longer fight. A dog is deemed unable to continue if it refuses to fight, jumps out of the ring, or sustains a serious injury.⁷²

Aside from ending a match, a referee will usually only stop the match for two other reasons. One instance is when a dog turns away from the other dog, in which case, the referee will call a “turn” and both dogs will return to their handlers.⁷³ The dogs will then return to their “scratch lines” and the referee will restart the fight. If a dog fails to attack or stays at its scratch line, the dog will forfeit and the match will be called. The other instance is when a dog’s upper lip becomes hooked on its own teeth, termed “fanged” in the fighting world, in which case, the handler will be allowed to unhook the dog’s teeth. During each break in the fight, handlers are allowed to provide water for their dogs from a water bottle, which is subject to inspection prior to the match.⁷⁴

The duration of a dog fight on average is roughly about an hour, but it is not uncommon for fights to last longer.⁷⁵ During the fight, fans and spectators place bets and watch eagerly as the dogs rip into one another. Like the sport itself, fans and spectators range in backgrounds from affluent to low income. Disturbingly, fans often bring their children to these sporting events and view these grisly events as family appropriate forms of entertainment. As one father commented, when asked whether it was appropriate to bring his five year old son to a dog match, “Life in general is violent

⁷² Silverman, *supra* note 47.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Humane Soc’y of the U.S., Dog Fighting Fact Sheet, http://hsus.org/acf/fighting/dogfight/dogfighting_fact_sheet/ (last visited August 12, 2009).

. . . big fish eat little fish, the world we live in is cynical and cruel. I want my son to adapt to this from the very beginning of his childhood. . . . Maybe the sight of these dogs fighting will instill in him the determination to fight for his place under the sun.”⁷⁶

e. The Winners and Losers

If a dog is successful at a fight, the handlers can receive substantial prizes and monetary rewards. First, winning handlers receive cash prizes ranging from a few hundred dollars to several thousand dollars depending on the size of the event.⁷⁷ At highly organized events, the low-end winning handlers receive around \$50,000, but at larger dog fights, involving international handlers, purses can be as high as \$1-2 million.⁷⁸ Assuming the dog survives the injuries sustained during the fight, another benefit winning handlers can expect is breeding. One of the most lucrative aspects of dog fighting occurs when handlers attempt to create good fight lines through their dogs by breeding winning dogs with other winning dogs. Generally, the more successful a dog is during its campaign as a fighter, the more money its puppies will be worth.⁷⁹ If a dog wins three or more fights and reaches the title of “Champion,” the puppies of that dog will be substantially more valuable. Puppies from a good champion bloodline can cost anywhere from a few hundred to several thousand dollars per puppy.⁸⁰ To date, the most expensive fighting dogs sold were raised by Floyd Bourdeaux. At one time

⁷⁶ See *Fighting by Proxy*, *supra* note 20.

⁷⁷ Best Friends Animal Soc’y, Dog Fighting in Georgia, http://fightdogfighting.com/dogfighting_georgia.cfm (last visited Aug. 12, 2009).

⁷⁸ See Bacon, *supra* note 49.

⁷⁹ See Silverman, *supra* note 47.

⁸⁰ *Id.*

considered one of the biggest figures in dog fighting, Floyd Bourdeux reportedly charged \$5000 per dog.⁸¹

The losing dogs, however, do not fare as well. Almost always, the losing dogs are killed or abandoned by their handlers following the match, unless they have a history of prior wins or come from a good blood line. This practice of abandoning or killing these dogs is done for a number of reasons. First, most losing dogs suffer such severe injuries that they stand little or no chance of survival without substantial medical care, and as such, handlers are unable to fight the dogs again.⁸² Second, handlers dispose of these injured animals to destroy the evidence that they are involved in anything illegal. Caring for an injured dog may raise suspicion and jeopardize a handler's dog fighting operation so handlers will either kill or abandon the injured dogs to avoid attracting unwanted attention.⁸³ Another reason handlers kill losing dogs is to avoid embarrassment and damage to the handler's reputation. In the dog fighting world, a handler's dog and its prowess as a fighter are often viewed as a personal reflection on the handler.⁸⁴ This is especially common among though not limited to gang members who view their own dog as a reflection of their status in the gang.⁸⁵ While a successful dog may elevate a gang member's status, a losing dog reflects poorly on a gang member's image. In order to save face, gang members will torture and kill the losing dog in horrific ways to reassert their tough image within the gang.⁸⁶ For example,

⁸¹ Tom Weir, *Vick Case Sheds Light on Dark World of Dogfighting*, USA TODAY, July 27, 2007, available at http://www.usatoday.com/sports/football/nfl/falcons/2007-07-18-vick-cover_N.htm.

⁸² See Laura Smith-Spark, *Brutal Culture of US Dog Fighting*, BBC NEWS, Aug. 24, 2010, <http://www.bbc.co.uk/2/hi/americas/6960788.stm>.

⁸³ See OFF THE CHAIN, *supra* note 14.

⁸⁴ See Bacon, *supra* note 49.

⁸⁵ *Id.*

⁸⁶ See Gibson, *supra* note 7.

it is not uncommon for losing dogs to be drowned, hanged, electrocuted, burned alive, doused with corrosive chemicals or beaten to death with blunt objects.⁸⁷ This list is not exhaustive, however, and animal rescuers are constantly surprised at how grisly these deaths are as handlers resort to more disturbing tactics to reassert their tough image.⁸⁸ No matter the reason for disposing of the losing dog, the torture and ultimate death of the dog is almost always done in front of the crowd, who view this simply as part of the sport.⁸⁹

⁸⁷ See Weir, *supra* note 81.

⁸⁸ See Pet Pit Bull - Sad Reality, *supra* note 52.

⁸⁹ See Silverman, *supra* note 47.

V. Criminal Activity Associated with Dog Fighting

A fundamental misconception most Americans have about dog fighting is that dog fighting is isolated from other criminal activity and is only a concern for animal rights activists. This concept that dog fighting is really an animal rights issue is misguided. In reality, dog fighting is closely associated with some of the most serious crimes plaguing our society and may involve people with extensive criminal backgrounds.⁹⁰ Because of the secretive nature of dog fighting, the events are frequently the scenes of other more dangerous crimes including illegal gambling, drug distribution, prostitution, illegal weapons exchange, and even homicide.⁹¹ For example, one state trooper stated that in a three year period, “We’ve seized AK-47’s, explosive devices, [and] a kilo of crack. The drugs and weapons associated with this sport are unbelievable.”⁹² Another law enforcement agent jokingly compared dog fights to convenience stores for criminals: “It’s like one-stop shopping.”⁹³ Police departments across the United States are realizing how interwoven dog fighting is with other serious crimes. Because of the connection dog fighting has with other crimes, police departments across the nation are forming specialized operations to concentrate only on dog fighting because busting a dog fight could potentially help police “take out a whole miniature crime syndicate.”⁹⁴

VI. The Victims of Dog Fighting

⁹⁰ See Gibson, *supra* note 7.

⁹¹ *Id.*

⁹² Weir, *supra* note 81.

⁹³ Lawson, *supra* note 27, at 36.

⁹⁴ *Id.*

While many dog fighting enthusiasts advertise the blood sport as a victimless crime, there are in fact many who suffer at the hands of these handlers. The obvious victims of this blood sport are the dogs themselves, who spend their entire lives trapped in a violent and brutal world, but this sport has other, less obvious victims like the children who are forced to bear witness to these violent acts and society which shouldered the economic burden this sport creates.

a. Children

The effect dog fighting has on children may at first seem limited but studies report exposing children to organized violence and torture of animals has a lasting impact on children. First, the dog fighting world may expose children to a multitude of dangerous and illegal activities that threaten their general welfare, such as drugs, gangs, prostitution, and even murder. Criminal activity aside, children raised in homes with fighting dogs are also at risk for potential injury, since these dogs are poorly socialized, antagonized to bring out aggression, and lack “positive attachment to humans”.⁹⁵

Furthermore, many studies indicate that children who witness organized torture and violence, like dog fights, are more likely to become anesthetized to violence and will be more likely to commit future crimes. “Countless studies indicate that children who are raised in violent, bullying, abusive homes learn that behavior and repeat it throughout their lives.”⁹⁶ Further studies suggest, “people who abuse animals

⁹⁵ KAREN DELISE, *THE PIT BULL PLACEBO: THE MEDIA, MYTHS, AND POLITICS OF CANINE AGGRESSION* 135 (2007).

⁹⁶ Jared Squires, *The Link Between Animal Cruelty and Human Violence: Children Caught in the Middle*, 8 KY. CHILD. RTS. J. 2, 2 (2000).

are five times more likely to commit violent crimes against humans.”⁹⁷ Moreover, the FBI has studied the connection between violence involving animals and the effect on children. Indeed, the FBI has found that witnessing and imitating violent behaviors against animals is extremely damaging to a young child and helps to condition that child for future violent behaviors, so much that the FBI uses animal abuse to profile serial killers. The connection between animal abuse and the effect on children is undeniable, simply view a list of recent serial killers to find that generally their first victims were usually animals.⁹⁸ Studies focusing specifically on sex offenders provide “that 48% of rapists and 30% of child molesters admitted to acts of animal cruelty in childhood or adolescence.”⁹⁹ When children witness dog fights, where violence, torture, and cruelty are valued, even glorified, such statistics come as little surprise. In such a setting, children learn to inhibit their compassion for the suffering of other creatures, which are both smaller and weaker.

The effect of dog fighting on children has not gone unnoticed by gangs. “Some gangs use the bloody sport to desensitize younger gang members, [Chicago Police Sergeant Brian] Degenhardt said. ‘It’s initiation through blood,’ he said. ‘They use them to deaden their senses to violence.’”¹⁰⁰ More troubling still is the rate at which American children are becoming exposed to this sport. A recent study indicates one out of every five children in Chicago has witnessed a dog fight, but another study suggests

⁹⁷ *Id.* at 5.

⁹⁸ *Id.* at 3.

⁹⁹ *Id.* at 5.

¹⁰⁰ Angela Rozas, *Cops Look for Gangs Behind Each Dogfight: Animal Crimes Unit Now Part of Gang Investigations*, CHI. TRIB., Aug. 29, 2008, at 3, available at 2008 WLNR 16335238.

the number is closer to four out of every five children.¹⁰¹ Because of the significant damage the sport causes children, dog fighting offenses must be treated with the utmost seriousness in order to avoid a future generation that is devoid of compassion and anesthetized to violence.

b. Society

Dog fighting also negatively affects our society because of the economic burden the sport places on our society. Animal shelters are constantly overwhelmed by the large numbers of fighting dogs they receive each year. Nationwide, pit bulls and pit bull mixes comprise up to a third of dog intake; in city facilities, that figure can be as high as seventy percent.¹⁰² In many instances, these dogs must be housed for months on end, while the handlers are prosecuted and lose legal custody of their dogs. While handlers are being prosecuted, animal shelters try and meet the unique challenge of providing shelter for dogs, which have been trained to be both strong and aggressive towards other animals. "We had to go back and re-engineer our housing because the dogs were able to literally pull apart the cages," said Mark Kumpf, director of the Montgomery, Ohio animal shelter in Dayton.¹⁰³ Aside from housing issues, animal shelters must also provide extra security in order to prevent handlers from taking back their own dogs or other handlers stealing rescued fighting dogs to use in their own matches.¹⁰⁴ As a result, it has fallen to tax payers across the United States to foot the bill

¹⁰¹ Nancy Lawson, Animal Cruelty & Fighting Campaign, Humane Soc'y of the U.S., A Nation in the Ring Part 3: Pit Bulls as Currency (Sept. 7, 2007), http://www.hsus.org/acf/news/dogfighting_national_epidemic_3.html.

¹⁰² Nancy Lawson, Animal Cruelty & Fighting Campaign, Humane Soc'y of the U.S., A Nation in the Ring Part 2: The Costs of Dogfighting (Sept. 7, 2007), http://www.hsus.org/acf/news/dogfighting_national_epidemic_2.html.

¹⁰³ See Lawson, *supra* note 27, at 35.

¹⁰⁴ *Id.*

to house these dogs. For example, in Houston, \$133,000 were spent housing pit bulls annexed from a single property.¹⁰⁵ Another Ohio county has reported spending over a half a million dollars to house fighting dogs since 2002.¹⁰⁶ The most famous example comes out of the Michael Vick case, discussed later. Vick was required “to pay close to a million dollars for the costs of caring for the [fighting] dogs.”¹⁰⁷

Another source of economic drain regarding dog fighting is the effect it has had on the feral dog population in the United States. Directly tied with dog fighting, feral dog populations have increased dramatically due to handlers abandoning their fighting dogs on the streets or in deserted rural areas.¹⁰⁸ The cities of Los Angeles, Detroit, New Orleans, Cleveland, New York, Baltimore, Houston, Indianapolis, Santa Fe and Pittsburgh all reported an increase in the feral dog population to the point it has reached epidemic proportions.¹⁰⁹ In Los Angeles alone, the city estimates the feral dog population is as high as 50,000 dogs, and as a result of this growing population, two hundred thousand people sustained dog bites from abandoned dogs in a single year.¹¹⁰ In urban areas, dog bites from feral dogs are not uncommon, especially among children, making many neighborhoods unsafe because packs of feral dogs patrol the streets in search of food.¹¹¹ In rural areas when food supplies dwindle, feral dogs have been known to attack livestock and wild animals living in the area, resulting in the

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Rebecca Huss, *Lessons Learned: Acting as Guardian/Special Master in the Bad Newz Kennels Case*, 15 ANIMAL L. 69, 73 (2008).

¹⁰⁸ See Maryann Mott, *U.S. Facing Feral Dog Crisis*, NAT’L GEOGRAPHIC NEWS, August 21, 2003, http://news.nationalgeographic.com/news/2003/08/0821_030821_straydogs.html.

¹⁰⁹ Stray Rescue of St. Louis, *An Underground Epidemic: America’s Wild Street Dogs Bringing the Feral Dog Epidemic to the Forefront of Animal Welfare*, <http://www.strayrescue.org/node/319> (last visited May 6, 2010).

¹¹⁰ *Id.*

¹¹¹ See *Panorama: Dog Fighting Undercover* (BBC One television broadcast Aug. 30, 2007), transcript available at <http://news.bbc.co.uk/2/hi/programmes/panorama/6976011.stm>.

destruction of millions of dollars in livestock and shrinking wild animal populations.¹¹²

The main problem facing cities across the United States is that feral dog population increases on a daily basis, and animal control simply lacks the financial resources to control the feral dog population. As a result, these dogs and the damage they create inevitably become the tax payer's burden.

¹¹² *Id.*

VII. Congressional Action

The Animal Welfare Act was the first federal law in which Congress banned animal fighting. Originally enacted in 1966 under the commerce clause,¹¹³ the 1976 amendment to the act became the first instance of Congress exercising its power to ban animal fighting.¹¹⁴ On May 3, 2007, President Bush signed into law the Animal Fighting Prohibition Enforcement Act of 2007, which increased the penalties for dog fighting to up to three years in prison.¹¹⁵ “In 2008, the passage of the Food Conservation and Energy Act increased the maximum time for imprisonment for dog fighting ventures to five years.”¹¹⁶ In 2008, dog fighting became a crime in all fifty states, with Idaho and Wyoming being the final states to make the crime a felony.¹¹⁷

VIII. Michael Vick Case and Its Effect as a Deterrent

While Congress continues to combat dog fighting, many animal activists cite to the recent Michael Vick case as a key victory because the case brought national media attention to the problem, exposing the dark world of dog fighting to the American public. One of the most famous dog fighting cases in recent legal history, Michael Vick, an NFL football player, was sentenced to 23 months in prison after he pled guilty to “conspiring to travel in interstate commerce in aid of unlawful activities and sponsoring a dog in an animal fighting venture.”¹¹⁸ As stipulated by his plea agreement, Michael Vick admitted to killing between six to eight pit bulls by drowning

¹¹³ Pub. L. No. 89-544, 80 Stat. 350 (1966) (codified at 7 U.S.C. §§ 2131–2159 (2006)).

¹¹⁴ See Gibson, *supra* note 7.

¹¹⁵ Pub. L. No. 110-22, 121 Stat. 88.

¹¹⁶ Huss, *supra* note 107, at 72; see also 18 U.S.C. § 49 (Supp. I 2007).

¹¹⁷ Huss, *supra* note 107, at 72.

¹¹⁸ See *id.* at 71.

or hanging.¹¹⁹ Having now served his twenty-three month sentence, Vick has been conditionally reinstated in the NFL and the Commissioner of the NFL has hinted that Vick may be officially reinstated by October of 2009.¹²⁰ Furthermore, Michael Vick has recently been picked up by the Philadelphia Eagles, who offered Vick a one year, \$1.6 million contract with a \$5.6 million option.¹²¹

Even though animal advocates may view the Michael Vick case as a triumph, Michael Vick has failed to serve as an adequate deterrent to our society. A problem with using Michael Vick's case as a deterrent is that many people believe Vick was simply a victim of the establishment and believe he was only targeted because he was a celebrity. For example, Redskin football player Clinton Portis publicly defended Vick, stating "I know a lot of back roads that got a dog fight if you want to go see it. But they're not bothering those people because those people are not big names."¹²² When asked what if Vick is charged and convicted, Portis stated: "Then I think he got cheated. . . . You're putting him behind bars for no reason—over a dog fight."¹²³ Furthermore, despite Vick's status as a felon, he is still viewed by children as a role model or someone to emulate. It has not deterred "young urban tough guys."¹²⁴ As Randy Grim, executive director of Stray Rescue of St. Louis, stated: "It actually generated more interest among urban youth," as kids who believed that dog fighting

¹¹⁹ *Id.* at 72.

¹²⁰ *NFL Reinstates Michael Vick on Conditional Basis*, CNN, July 27, 2009, <http://www.cnn.com/2009/US/07/27/michael.vick/index.htm>.

¹²¹ Judy Battista, *In a Surprise, Vick Signs with the Eagles*, N.Y. TIMES, Aug. 13, 2009, at B8, available at <http://www.nytimes.com/2009/08/14/sports/football/14vick.html>.

¹²² *Portis, Samuels Mock Dogfighting Cases*, RICHMOND TIMES-DISPATCH, May 22, 2007, at D3, available at 2007 WLNR 9792313.

¹²³ *Id.*

¹²⁴ Sharon L. Peters, *A Fight to Save Urban Youth From Dogfighting*, USA TODAY, Sept. 29, 2008, available at http://www.usatoday.com/news/nation/2008-09-29-dogfighting_N.htm.

was a sport for rural or poor urban areas saw that the affluent were also involved.¹²⁵

While the Michael Vick case may have raised awareness of the horrors of dog fighting, it is clear that it has done little to combat the ever growing popularity of this sport.

IX. Conclusion

Dog fighting, once an accepted form of entertainment is now illegal in all 50 states and by Act of Congress as well. It has been driven underground and may be associated with other forms of illegal activities.

DATED this 17th day of September, 2010

s/Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge

¹²⁵ *Id.* (alteration in original).